

**DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS**

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February 13, 2004

**DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS**

**Amendment of Sections 9846, 10125, and 10564, and  
Adoption of Chapter 8 (commencing with Section 13000), Division 4, Title 9,  
California Code of Regulations**

**Notice of Rulemaking and Public Comment Period**

NOTICE IS HEREBY GIVEN that the California Department of Alcohol and Drug Programs proposes to adopt regulations requiring certification for all individuals providing counseling services in alcohol or other drug (AOD) programs. These regulations will be contained in Chapter 8 (commencing with Section 13000), Division 4, Title 9, California Code of Regulations (CCR).

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

This regulatory action adopts Chapter 8 (commencing with Section 13000) and amends Sections 9846, 10125, and 10564 of Division 4, Title 9 of the California Code of Regulations by establishing requirements for certification of staff who provide counseling services in alcohol and other drug (AOD) programs. Health and Safety Code Sections 11833, 11834.27, 118136, 11836.15, 11876, and 11880 and implementing regulations at Sections 9846, 10125, and 10564 do not currently specify minimum standards of education and experience for AOD counselors. These regulations will protect the public health, safety, and welfare by establishing such minimum standards, ensuring that AOD counselors can provide the best possible services to participants, patients, and residents of AOD programs. Highlights of these new regulations are discussed below:

- Counselor certification regulations will apply to all individuals providing counseling services in an AOD program licensed or certified by the Department of Alcohol and Drug Programs (ADP).
- Within six (6) months all non-certified individuals providing counseling services in an AOD program shall be registered to obtain certification by one of the certifying organizations specified in the regulations. New hires will have six (6) months from the date of hire to register.



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- Registrants shall complete certification as an AOD counselor within five (5) years of the date of registration.
- Counselors currently certified must register with one of the certifying organizations listed in the regulations.
- Licensed professionals are not required to be certified.
- Licensed professionals shall complete forty (40) hours of continuing education every two (2) years. Such education shall be based on “Addiction Counseling Competencies, The Knowledge, Skills, and Attitudes of Professional Practice” (TAP 21) and shall be provided or approved by the AOD program employing the licensed professional.
- Counselors with a minimum of five (5) years of counseling experience may “test out” by achieving a passing score as determined by the certifying organization.
- All certifying organizations shall become accredited with The National Commission for Certifying Agencies (NCCA) within two (2) years after the regulations become effective and shall maintain continuous accreditation.
- Prior to certification as an AOD counselor, the certifying organization shall require:

Completion of a minimum of 315 hours of education and training, including:

The curriculum specified in TAP 21

Provision of services to special populations such as aging individuals; individuals with co-occurring disorders such as mental illness and AOD problems; individuals with disabilities; gay, lesbian, or transgendered individuals; individuals with cultural differences; and individuals on probation or parole.

Education on ethics, and communicable diseases such as tuberculosis, hepatitis B or C, or AIDS

Training on prevention of sexual harassment.

Completion of a minimum of 2,080 documented hours of work experience providing counseling in an AOD program.

Completion of forty (40) hours of continuing education every two (2) years.

- Registrants and certified AOD counselors shall be required to sign a code of conduct.
- ADP will investigate all complaints including counselor complaints.

## **AUTHORITY:**

These regulations are being adopted pursuant to the rulemaking authority granted in Health and Safety Code Sections 11755, 11834.50, 11836.15, and 11864.

## **REFERENCE:**

The statutory references for this regulatory action are Health and Safety Code Sections 11833, 11834.27, 118136, 11836.15, 11876, and 11880.

## **FISCAL IMPACT STATEMENTS:**

Costs or Savings in Federal Funding to the State: None. No federal funding is involved.

Costs or Savings to Any State Agency: None in the current State Fiscal Year. Anticipated annual costs are estimated at \$324,729. Costs during the current fiscal year are expected to be lower due to mid-year implementation and “ramping up” considerations. Current fiscal year costs will be absorbed within existing resources. ADP anticipates using federal funds for budget year 2004-05 and beyond, and may ultimately charge fees to support the program. Additional legal and program staff positions will be needed to handle increased workload of reviewing and investigating consumer complaints of violations of the code of conduct and of handling appeals of denial, temporary suspension, or revocation of certification. These additional functions are needed to protect the health, safety, and welfare of AOD clients.

Costs or Savings to Any Local Agency or School District: Counties that operate licensed or certified AOD programs may choose to pay higher salaries to certified AOD counselors. Any resulting costs may be recouped by increasing fees for AOD treatment.

Nondiscretionary Costs or Savings Imposed on Local Agencies: This regulatory action will not result in any nondiscretionary costs or savings to local agencies.

Local Mandate Determination: The Department has determined that this regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

Cost Impacts on Representative Private Persons or Businesses: Approximate cost of \$100-\$800 for individuals seeking certification as an AOD counselor. Costs may be recouped in higher salary.

Effect on Business: The Department has made an initial determination that this regulatory action will not have a significant statewide adverse economic impact directly affecting businesses because any cost resulting from these regulations may be recouped by increasing fees for providing AOD treatment. This regulatory action will not affect the ability of California businesses to compete with businesses in other states, as other states already require certification of AOD counselors. This regulatory action will not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing

businesses, or the expansion of businesses currently doing business within the State of California.

Effect on Small Businesses: The proposed regulatory action will affect small businesses because many AOD programs are small businesses as defined in Government Code Section 11342.610. The Department anticipates that AOD programs may be able to recoup any resulting costs through increased fees for AOD treatment.

Effect on Housing Costs: This regulatory action will not affect housing costs in any way.

### **WRITTEN COMMENT PERIOD:**

Any interested person or his authorized representative may submit written comments on the proposed regulatory action. **The written comment period closes at 5 p.m. on March 29, 2004.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period. Please send written comments to Mary Conway, Regulations Coordinator, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814. Comments may also be submitted by fax at (915) 323-5873 or e-mail at [MCONWAY@ADP.STATE.CA.US](mailto:MCONWAY@ADP.STATE.CA.US).

### **SCOPE OF TESTIMONY:**

Section 11346.8(c) of the Government Code prohibits the Department from making any changes to the text of a noticed regulation after the public hearing, unless the change was so sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed action. Therefore please make your comments specific to the regulation discussed in this notice. Please indicate the number of the section you would like changed, the specific change requested, and the reason why you would like the section changed. Since the Department cannot make changes to sections of regulation which were not mentioned in this public notice, during the public comment period the Department will not consider testimony regarding changes which are outside the scope of this notice. If you wish to request the Department to amend, adopt, or repeal additional sections of regulation, the Department is required to consider those changes in a separate regulatory action.

### **PUBLIC HEARING:**

The Department has not scheduled a public hearing on the proposed regulatory action. However, if any person wishes to submit oral comments, the Department will schedule a public hearing upon receipt of that person's written request. Such request must be received at the address shown above no later than 15 days prior to the close of the written comment period.

### **CONSIDERATION OF ALTERNATIVES:**

Pursuant to Section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which this regulatory action was taken. The Department must also determine that no alternative would be as effective and less burdensome to affected private persons than the regulatory action taken. The Department will consider any alternatives presented during the public comment period.

### **ADDITIONAL CHANGES:**

The Department may modify the proposed regulation in response to testimony received during the 45-day public comment period, so long as any additional changes made are sufficiently related to the proposed regulatory action and within the scope of this notice. The Department will make available to any interested persons, for at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation, the full text of any regulation which is changed or modified from the express terms to this regulatory action. The Department will mail a copy of the additional changes to any person who testified or submitted comments during the public hearing (if one is requested), who submitted written comments during the 45-day public comment period, or who requested copies of additional changes. Please call the Department's regulations coordinator at (916) 327-4742 if you wish to receive a copy of any additional changes and you do not plan to present comments regarding the proposed regulatory action.

### **AVAILABILITY OF TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS:**

The Department has prepared and has available for review upon request the text of the proposed regulations discussed in this notice, written in plain English; an initial statement of reasons, explaining the necessity for each regulatory change; and all the information upon which the proposed regulations were based. To obtain a copy, please call Mary Conway at (916) 327-4742 or write to her at the address shown on the first page of this notice. If you received this public notice in the mail, the text of the proposed regulation and the initial statement of reasons were enclosed. The proposed regulations and initial statement of reasons are also available on the Department's web site at <http://www.adp.ca.gov>.

### **PERSON TO CONTACT FOR ADDITIONAL INFORMATION:**

The Department's contact for this regulation package is Mary Conway, the Department's Regulations Coordinator, at (916) 327-4742. Backup contact is Tanya Avilla Medeiros at (916) 327-9549.

### **FINAL STATEMENT OF REASONS:**

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, please call Mary Conway at (916) 327-4742. The

final statement of reasons will also be posted on the Department's web site at <http://www.adp.ca.gov>.

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